IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

Crl.MC.No. 1198 of 2007()

CC.803/2005 of JUDL.MAGISTRATE OF FIRST CLASS-I, ALUVA

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PETITIONER:

G.CHANDRAN, MANALUVILA HOUSE,
MARANGATTUPALLY P.O., KURAVILGANGADU.

BY ADV. SRI.P.BABU KUMAR

RESPONDENTS:

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1. SHRIRAM INVESTMENT LTD.HAVING THE
OFFICE AT 36/847, CHITTOOR ROAD,
ERNAKULAM REP. BY ITS BRANCH MANAGER,
SUNILIKUMAR V.K., S/O.KAILAS, AGED 27,
VADAKKEDATH HOUSE,DESOM P.O., ALUVA.

2. STATE OF KERALA REP. BY DIRECTOR OF
PUBLIC PROSECUTION, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER
SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 15/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1198 of 2007

Dated this the 15th day of June 2007

O R D E R

The petitioner is the accused in a prosecution under Section 138 of the Negotiable Instruments Act. That prosecution is now pending before the learned Judicial First Class Magistrate Court-I, Aluva. The petitioner has come before this court with the prayer that the case may be quashed.

2. What is the reason? The learned counsel for the petitioner raises only a dispute regarding territorial jurisdiction. The payment was allegedly made at Ernakulam. The bank which dishonoured the cheque is at Kottayam. The accused resides at Kuravilangadu. But the proceedings has been initiated before the court at Aluva.

3. The learned counsel for the respondent fairly concedes that in view of the dictum in Ahammedkutty Haji vs. State of Kerala [2007(1) KLT 68], it cannot be said that the court at Aluva has the territorial jurisdiction.

4. In the absence of contentions in that aspect, I accept that submission. The mere fact that notice of demand was issued by a counsel within the jurisdiction of the court at Aluva, cannot obviously confer jurisdiction on the court at Aluva to take cognizance in the matter. The bank which dishonoured the cheque is situated in Kottayam. I am, in these circumstances, satisfied that the lesser relief of transfer can be granted to the petitioner. I am unable to agree that the complaint can be quashed for that reason.

5. In the result, this petition is allowed. C.C.No.803/2005 pending before Judicial First Class Magistrate Court-I, Aluva is transferred to the court of the learned Chief Judicial Magistrate, Kottayam. The learned Magistrate at Aluva shall forthwith forward the records to the learned Chief Judicial Magistrate, Kottayam. The parties shall appear before the learned Chief Judicial Magistrate, Kottayam on 09/07/2007 without waiting for any further process.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007